



MARTHA COAKLEY
ATTORNEY GENERAL

THE COMMONWEALTH OF MASSACHUSETTS
OFFICE OF THE ATTORNEY GENERAL
ONE ASHBURTON PLACE
BOSTON, MASSACHUSETTS 02108

(617) 727-2200
(617) 727-4765 TTY
www.mass.gov/ago

Attorney General's Informational Bulletin on the State of Managed Competition

November 14, 2007

This year, the Commissioner of Insurance shifted the Massachusetts auto insurance system to "managed competition." Under this new system, companies will file individually for their own rates and should compete with each other for customers. Under the old system, companies did not compete; the industry together decided on the rate it wanted to charge, and then asked the Commissioner to approve it. Each insurer then had the option to offer a lower rate. Under either system, the Attorney General is authorized by statute to challenge rate requests that are excessive or unfairly discriminatory.

The Attorney General supports the goal of increased competition. In the Attorney General's role as advocate for consumers and ratepayers, this Office will review rate filings, and also provide public information regarding the status and progress of the new "managed competition" system.

As part of implementing "managed competition," the Commissioner issued regulations to govern the new system. Under these regulations, the Commissioner directs the industry trade group, the AIB, to file with her a suggested "Advisory Rate" that can be adopted by companies that insure less than 1 percent of the market. In addition, insurers (through the Commonwealth Automobile Reinsurer organization ["CAR"]) are required to file proposed rates for consumers who are unable to obtain insurance in the open marketplace (the "residual market"). Finally, after both of these joint industry filings are submitted, the individual insurance companies are required to file their own individual rates on November 19th.

The insurers submitted the Advisory Filing and Residual Market Filing to the Commissioner of Insurance at the end of October. The Attorney General's Office sought additional information on the filings from the industry trade group, which refused to provide the data. Our Office has in any event completed a preliminary review of the filings.

- The advisory filing was a disappointing beginning to the managed competition process. The advisory filing recommends only a 2.5% decrease, in spite of the fact that losses dropped approximately 10% in 2006 and have now fallen by 17% since 2004 (and 25% since 2003). If the under 1% companies do not adopt the advisory filing and instead file their own lower rates, this will be a healthy sign. If these companies adopt the higher advisory rates, this will suggest a lack of interest in engaging in real price competition.

- The two most troubling aspects of the advisory filing are the way the industry calculates its profits and losses. First, the advisory filing allows the industry to increase its profits even more than the Commissioner, in her previous role as rate setter, had allowed last year. It would be unfortunate if the companies were to view managed competition as a way to increase the profits in their rates rather than to compete by lowering prices.
- The advisory filing also uses unorthodox methods to predict what property damage it will have to cover. It predicts that damage will increase, even though property damage losses have declined substantially in recent years. If the filing used the method used by the Commissioner in her rate-setting decisions over the last five years, rates would be reduced. Again, it would be unfortunate if the companies were to use managed competition as an excuse to use unreasonable methods to raise prices.
- The advisory filing also changes the way subsidies are factored into the rate. During 2008, the largest impact will affect inexperienced drivers, who will not be subsidized. As a result, if insurers adopt the advisory filing, many inexperienced driver rates will rise by 10%. The rate indicated for inexperienced drivers is actually much greater than 10% in the filing, but the filing caps the increase at 10% because of a requirement of the Division of Insurance. However, this cap requirement expires after the 2008 rate year and if rates ultimately increase to their indicated level, either in 2009 or in future years, the advisory rates for experienced drivers in some urban territories and for some coverages will increase by as much as 72%. The advisory rates for inexperienced drivers in some territories will increase by well over 100%.

The AIB has also prepared the residual market filing for rates of the new assigned risk plan. The indicated residual market increase is 51.6%, also capped for 2008 at the transitional rate cap of 10%. In future years, if the cap is removed, residual market rates will rise to the indicated level. For the first three years of the new assigned risk plan's operation, a partial "clean in 3" provision will prevent those drivers with no at-fault accidents or violations during the previous three years from being placed in the assigned risk plan as long as they do not attempt to switch insurance companies. The Commissioner, however, rejected the Attorney General's recommendation that an inclusive "clean in 3" provision be made a permanent part of the plan, and after the transitional period, there will be no limitation on the placement of good drivers in the assigned risk plan.

Massachusetts law currently prohibits companies from charging a higher rate to consumers assigned to them through the assigned risk plan than to drivers not in the assigned risk plan. Thus, no driver should be charged the assigned risk plan rate in the AIB's residual market filing unless it is lower than the rate the driver would otherwise have received from the same insurer had she not been assigned through the assigned risk plan.

The Attorney General will be reviewing voluntary market rate filings from individual insurers starting on November 19th. Our Office will consider a variety of factors, including the loss, profit, and expense provisions, the sufficiency of the data, and the viability and fairness of relevant rating criteria. Insurers are invited to contact the AGO to discuss their planned rate requests.